

# LOS ANGELES COUNTY DISTRICT ATTORNEY CHARGE EVALUATION WORKSHEET

Page 1 of 5

<input checked="" type="checkbox"/> FELONY  <input type="checkbox"/> MISDEMEANOR	AGENCY NAME <b>LASD - INTERNAL CRIMINAL</b> AGENCY FILE NO. (DR OR URN) 911-00036-2003-441	DA CASE NO. 32053781  DA OFFICE CODE J.S.I.D. #12-0351R	DATE 10/19/2012  VICTIM ASSISTANCE REFERRAL <input type="checkbox"/> YES - NOTIFY VWAP <input type="checkbox"/> NO
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SUSP NO.	SUSPECT	CHARGES			
		CODE	SECTION	OFFENSE DATE	REASON CODE
1	NAME (LAST, FIRST MIDDLE)) PADILLA, ENRIQUE	PC	149	11/25/2010	B
	DOB	SEX (M/F) M	BOOKING NO.	VIP -- Yes X No	
	Gang Member Name of Gang		Victim Gang Member Name of Gang:		
	Victim Name:		Victim DOB:		
2	NAME (LAST, FIRST MIDDLE)) GARCIA, MICHAEL	PC	149	11/25/2010	B
	DOB	SEX (M/F) M	BOOKING NO.	VIP -- Yes X No	
	Gang Member Name of Gang		Victim Gang Member Name of Gang:		
	Victim Name:		Victim DOB:		
3	NAME (LAST, FIRST MIDDLE))				
	DOB	SEX (M/F)	BOOKING NO.	VIP -- Yes -- No	
	Gang Member Name of Gang		Victim Gang Member Name of Gang:		
	Victim Name:		Victim DOB:		

Comments  
 SEE ATTACHED.

COMPLAINT DEPUTY (print) FERNANDO GUZMAN/ap	COMPLAINT DEPUTY (SIGNATURE) 	STATE BAR NO. 134362	REVIEWING DEPUTY (SIGNATURE) 
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I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): CHARLES CALDERARO      FILING OFFICER (SIGNATURE): mailed 10/26/12      SERIAL #: 292973

<b>DEPARTMENT OF JUSTICE REASON CODES (FORM 8715)</b>  A. Lack of Corpus B. Lack of Sufficient Evidence C. Inadmissible Search/Seizure	D. Victim Unavailable/Declines To Testify E. Witness Unavailable/Declines to Testify F. Combined with Other Counts/Cases G. Interest of Justice	H. Other (indicate the reason in Comments section) I. Referred to Non-California Jurisdiction J. Deferred for Revocation of Parole K. Further Investigation	L. Prosecutor Prefiling Deferral <b>DISTRICT ATTORNEY'S REASON CODES</b> M. Probation Violation filed in lieu of N. Referred to City Attorney for Misdemeanor Consideration
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LAST NAME: PADILLA


FIRST NAME: ENRIQUE

DA CASE NUMBER: 32053781

## DECLINATION MEMORANDUM

TO: JSID #12-0351R

THROUGH: SERGIO GONZALEZ, Head Deputy  
Justice System Integrity Division

FROM: FERNANDO GUZMAN, Deputy District Attorney   
Justice System Integrity Division

SUBJECT: LASD Deputy Enrique Padilla, #492894  
LASD Custody Assistant Michael Garcia, #533978

DATE: October 17, 2012

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Los Angeles County Sheriff's Deputy Enrique Padilla and Custody Assistant (CA) Michael Garcia assaulted Frederick Bruno under color of authority within the meaning of Penal Code section 149. For the reasons set forth below, this office declines to initiate criminal proceedings.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Sergeant Charles Calderaro, LASD Internal Criminal Investigations Bureau (ICIB). Deputy Padilla and CA Garcia declined to be interviewed during this investigation. Compelled statements, if they exist, were not reviewed.

### FACTUAL ANALYSIS

On September 13, 2011, Sergeant Scott Craig, LASD, ICIB, interviewed Deputy Gilbert Michel regarding possible criminal activity by LASD personnel working at Men's Central Jail (MCJ). Deputy Michel was arrested for accepting a bribe and smuggling a cellular telephone into MCJ. He agreed to discuss criminal activity by other LASD personnel. Michel described four incidents of improper uses of force by LASD personnel, which he witnessed.

One of the incidents he described witnessing was an assault under color of authority committed against Inmate Frederick Bruno. Deputies Aguirre, Ibarra, Carbajal and Michel were involved in this incident which occurred when Bruno was first brought to their module in December, 2010.

On September 21, 2011, Sergeant Calderaro interviewed Bruno about the above allegation. Bruno had no recollection of the incident Michel described, but made a different allegation against Deputy Padilla and CA Garcia.<sup>1</sup>

Bruno stated that around Thanksgiving 2010, he complained to the MCJ nurse that he was having chest pains. The nurse asked the deputies to escort Bruno to the clinic. Padilla came to his cell and stated, "There better be something wrong with you or I'm gonna beat your ass for wasting my time." Bruno was taken to the clinic and given an electrocardiogram (EKG), which returned negative results.

When Bruno returned to the 3500 module, Padilla and Garcia told him to go to the upstairs shower area and wait. Bruno waited in the shower with his hands cuffed behind his back. Padilla and Garcia arrived and argued with Bruno about wasting their time. Padilla grabbed his arms and lifted them upward causing Bruno to lose his balance and fall to the floor. Padilla slid Bruno across the floor and placed a knee in his back.

Garcia picked Bruno up from the floor and warned him about wasting the deputies' time. Bruno agreed that he would not cause any further problems. He was placed in his cell without further incident. Bruno stated that he was not injured.

Sergeant Calderaro showed Bruno photo identification cards including photographs of Padilla and Garcia. He positively identified Garcia by name. He identified the photo of Padilla as someone who works at MCJ.

### **Witness Interviews**

Investigators located and interviewed approximately twenty inmates who were housed in the area where Bruno stated the incident occurred.

Inmate Marcus Stevens recalled an incident when Bruno was returning from the clinic. Stevens saw Deputies Aguiar and Ibarra grab Bruno's arms and pull them upward. They slammed Bruno into the wall. Bruno was pushed to a location out of Stevens' view. There were two or three other deputies present who Stevens could not name or describe.

Stevens does not like Aguiar and he can not tell the Ibarra twins apart.<sup>2</sup> Stevens identified Aguiar and Ibarra in a photographic line-up.<sup>3</sup> Stevens does not trust Bruno because Bruno tried to date Stevens' girlfriend. Bruno told the girlfriend that Stevens was being unfaithful to her.

Inmate Macario Garcia recalled an incident when a deputy came to Bruno's cell and handcuffed his hands behind his back. While escorting Bruno off the row, the deputy

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<sup>1</sup> The parties involved and the details of the incidents were dissimilar.

<sup>2</sup> Two twin brothers named Ibarra work at MCJ.

<sup>3</sup> Neither Aguiar nor Ibarra was working the shift when the Bruno incident occurred.

lifted Bruno's hands upward and grabbed the back top of his shirt. Inmate Garcia was unable to identify or describe the deputy.<sup>4</sup>

There were no other witnesses who stated that they saw the incident.

Inmate Alvin Allen recalled Bruno complaining about chest pains. He heard a deputy and a CA speak to Bruno about making false medical requests. They spoke to Bruno calmly and were not aggressive toward him. The deputies did not place their hands on Bruno. Bruno complained that the deputies "wrenched his arms behind him" and "mopped the shower floor with him." Bruno did not appear to be wet or injured.

Allen described Bruno as a career criminal who would tell "crazy stories." Bruno was always telling inmates how to file complaints on deputies. Bruno bragged about winning a \$100,000 settlement against the county. He had a tendency to "embellish by exaggerating." Bruno constantly complained about not receiving showers and other necessities.

Allen was unable to identify Padilla's photo, but did identify Garcia. He described Garcia as a very fair person who helped him a lot when he first got to MCJ.

Inmate Victor Bramasco recalled an occasion when Bruno was locked in the showers. Bruno began shouting "Hey everybody, this is what's gonna happen; they're gonna beat my ass; I'm gonna call the ACLU." Bruno continued shouting for thirty or forty minutes.

An unknown deputy told Bruno to shut up, but Bramasco never heard or saw Bruno get assaulted. The next day, Bruno claimed that deputies "kicked his ass and slammed his head against the wall." Bruno did not appear to be injured.

Inmate Andrew Torres described Bruno as "always running his mouth" and trying to get inmates to support his criminal case. Bruno was always the first to complain that deputies denied his showers, razors, visits and other things.

Inmate Alejandro Mannon called Bruno an "obnoxious White dude who bitched about everything." Bruno slammed his own head against the bars to cause problems for the deputies. He was always complaining about something and would speak to the American Civil Liberties Union (ACLU) on a regular basis.

Inmate Jeffrey Newkirk recalled that Bruno would fabricate stories. Bruno was always asking inmates to be witnesses so that he could sue the Sheriff's Department. He would ask inmates to be false witnesses against deputies.<sup>5</sup>

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<sup>4</sup> The showers where Bruno claimed the assault occurred are on a different floor than the 3500 module where Bruno was housed.

<sup>5</sup> Newkirk's description of Bruno varied throughout the interview.

### **Further Investigation**

Records indicate that Bruno never filed a complaint against any deputies for assaulting him in November or December 2010. His medical records do not document any physical injuries.

### **CONCLUSION**

The allegation made by Bruno is unsubstantiated by any other evidence. There is no documentation indicating that he filed a complaint or was injured. The only corroborating witness is Inmate Marcus Stevens who described a similar incident. However, Stevens positively identified two deputies who were not involved in the incident and were not working when the incident occurred.

Inmate Macario Garcia described an incident which occurred in the 3500 module. The incident Bruno described occurred in the shower.

The statements provided by these two inmates who claim to have witnessed the incident are so divergent from each other, as well as from Bruno's statements, that they can not be considered a credible basis for a criminal prosecution.

Descriptions of Bruno's personality by other inmates raise substantial questions about his credibility. If he solicited other inmates to make false statements against deputies, the testimony of other inmates would also become suspect.

Based on the foregoing analysis, we find insufficient evidence to prove beyond a reasonable doubt that Deputy Padilla and CA Garcia committed assault under color of authority. Therefore, we are closing our file and will take no further action in this matter.